

CLAIMS OF OFFICERS AND SOLDIERS—REVOLUTIONARY ARMY.

[To accompany Bill H. R. No. 13.]

MARCH 29, 1860.

Mr. FENTON, from the Committee on Revolutionary Claims, made the following

REPORT.

The Committee on Revolutionary Claims, to whom was referred "A bill to provide for the final settlement of the claims of the officers and soldiers of the revolutionary army, and of the widows and children of those who died in the service," report:

That the claims of the officers of the revolution for the half pay for life promised them by the resolution of October 21, 1780, have been repeatedly before Congress, and their justice admitted by the various committees to whom the subject was referred.

The first report was made by Mr. Madison on the 23d of April, 1783, in which he fully recognizes their justice. Again in 1810, a committee of the House declare, "that the contract entered into by Congress with the officers of the revolutionary army, allowing them half pay for life, has not been substantially complied with by our government, and they recommend that the prayer of the petitioner, being reasonable, ought to be granted." Again in 1818, Mr. Johnson, from a select committee of the House, to whom the subject was referred, made a report in favor of the memorialists. On the tenth of December, 1819, another report in favor of these claims was made by Mr. Sergeant, from a select committee to whom the subject was referred. On the third of January, 1826, another report was made in the Senate in favor of these claims. At the same session Mr. Burgess, of Rhode Island, made a favorable report in the House. On the 11th of February, 1828, he made another report. On the 11th of May, 1838, a committee of the Senate made another report in favor of these claims. In 1852 the subject was before the Senate, and an able report made by Mr. Walker, from the Committee on Revolutionary Claims.—(No. 164, 1st sess. 32d Cong.) On the 4th of February, 1854, the subject was again brought forward by Senator Evans, of South Carolina, who made a report accompanied by a bill, (No. 186,) which subsequently passed the Senate. A favorable report in

the House was agreed upon by the Committee on Revolutionary Claims, but it was not made, as stated by Mr. Peckham, chairman of the committee, for "lack of opportunity." On the 4th of April, 1856, Mr. Broom, from the Committee on Revolutionary Pensions, made an able report, accompanied by a bill, which passed the House of Representatives, but was postponed in the Senate by a majority of one. On the 5th of March, 1858, Mr. Cragin, from the Committee on Revolutionary Claims, made another favorable report in the House, accompanied by a bill which had been introduced by Mr. Fenton. The subject does not appear to have been acted upon since. That bill is nearly identical with the one introduced by Mr. Fenton at the present session, which is reported back without amendment, and its passage recommended by your committee.

That, since the revolution, the claims of the officers of the continental army for the half pay for life, promised them by various resolutions of the continental Congress, have frequently been before the committees of this House, and received their favorable consideration. At the last Congress a report was made from the Committee on Revolutionary Pensions, by Mr. Broom, (see House report No. 31, 1st session 34th Congress,) in which the subject is so fully considered that the committee deem it unnecessary to enlarge upon the views therein expressed, but adopt it as a part of their report, to be printed therewith.

From an examination of that report, and various other documents relating to the subject, your committee have arrived at the following conclusions:

1. That the resolves of October 21, 1780, and other acts of Congress, promising half pay for life to the officers of the continental army who should serve to the end of the war, or until the time of their reduction, formed a contract between the United States and the officers of the army, in their individual capacity, at a time when both were free to make it, founded upon a good and valid consideration.

2. That the officers fully performed and fulfilled the contract on their part, and by their services, sacrifices, and sufferings, gained the liberty and independence of the country.

3. That on the performance of said contract each officer, as an individual, acquired a *vested right of property therein*, of which he could not be divested "*without due process of law*," or by his own free and voluntary relinquishment, and any act of Congress impairing or affecting this right is repugnant to the Constitution and void. Under this contract each officer became entitled from the United States to half pay, according to the rank he held in the army from the close of the revolutionary war, or from the time of his discharge from the service until the period of his death, to be paid yearly and every year during that period, and for the performance of such contract on the part of the United States *the faith of the nation was solemnly pledged*. The committee also find that such officers were also entitled to an interest of six per cent. per annum on the yearly payments, and on the aggregate from the date of the officer's death to the time of settlement, under the resolution of Congress, passed June 3, 1784, which provides "That an interest of six per cent. shall be allowed to all the creditors of the

United States for supplies furnished, or *services done*, from the time that payment became due." In alluding to this resolve, Chief Justice Gilchrist, of the Court of Claims, in a recent decision says: "no language could be more express or free from doubt than this. The resolution was passed from a feeling that it was just and right that interest should be paid from the time the half pay became due, and it was a voluntary contract on the part of the United States, constituting a legal claim against them which no subsequent legislation could release without the consent of the other party." The above contract for half pay, although made under the confederation, is equally binding upon Congress, for by the sixth article of the Constitution of the United States, section one, "all *debts* contracted or *engagements* entered into before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the confederation."

4. That on the 22d of March, 1783, an attempt to avoid the above contract and procure satisfaction thereof, was made by Congress under an act called the commutation act, by which it was proposed to commute the above life annuities for five years' full pay.

5. This act was manifestly unjust in compelling individuals to abide by the decisions of the *lines* of the army, and placing the old and young on an equal footing. An officer sixty years of age might well commute his life annuity for ten years' half pay in advance, while one of thirty would have a right, upon the principles which govern life annuities, to estimate his life at a much longer period. It wholly deprived the officers as *individuals* of the right to determine whether they would accept or refuse, and the committee have not been able to ascertain that the officers, either by lines or as individuals, ever gave their assent to the commutation. But if, under the pressure of their poverty, (for be it remembered the continental money in which their monthly stipends had been paid was nearly valueless,) they had assented "it cannot be considered as a voluntary assent, but rather a submission to an uncontrollable and instant necessity, which admitted of no deliberation or delay." The resolve of Congress, an act of the government, left them no choice except to abide by the decision of the *lines* and corps of the army. They were entirely within the power of the government, and could do nothing which presented better prospects for themselves.

6. The *money* was not paid, nor were the *securities*, bearing an interest of six per cent., such as the act contemplated, or as the officers expected. The government made no provision for the payment of either principal or interest of the commutation until long after the imperious necessities of the officers compelled them to part with the certificates for less than a year's pay. It is true, however, that paper certificates of service were issued by John Pierce, paymaster, payable to the officers or bearer, for five years' full pay, and many doubtless received them. They were worth, at the time of their issue, one-eighth of a dollar only; and not until after a period of about ten years, and most of them were in the hands of speculators, were they funded and paid by the United States. The loss of interest alone on the commutation of a captain, (\$2,400,) who lived in 1828, was \$2,536, and so in proportion to other officers; and this amount the

government saved by the commutation.—(See *Annals of Congress*, vol. 4, part 1, for 1827-'28, page 441.)

"The commutation then is clearly liable to the following objections :

"1. That the commutation was not a valid accord and satisfaction for the half pay for life.

"2. That it was so construed as to take away the rights of these officers under the resolve of October, 1780.

"3. Of not being an equivalent for the half pay.

"4. Of having been effected under circumstances, and by the operation of motives which deprive it of all obligatory force.

"5. That, according to strict legal construction, these officers did not commute their promised half pay for life by accepting the so-called commutation certificates ; they, in no respect, having been in conformity to the act.

"6. Of partial execution."

7. The reports of Mr. Madison in 1783, Mr. Nelson in 1810, Mr. Johnson in 1818, Mr. Sergeant, December 10, 1819, Mr. Hemphill, January 3, 1826, Mr. Burgess, May 8, 1826, and February 11, 1828 ; the act of May 15, 1828, Senator Walker's report in 1852, Senator Evans', February 4, 1854, and Mr. Broom, April 4, 1856, show a repeated recognition of the contract on the part of Congress ; *but* no general provision appears to have been made by Congress for the relief of these officers until the act of May, 15, 1828, in which the contract of 1780 is fully recognized. They are there acknowledged as *creditors* of the government, and not pensioners. That act, however, applies to the few surviving officers only, and made no provision for those who died before its passage.

In the very able report of Mr. Burgess, made February 11, 1828, the committee say : "That in their opinion, the delivery of those certificates, as well on general principles as on those which govern courts of law and equity, did not annul the right of half pay, or exonerate the government from the obligations of the original contract. Such of those officers as had survived the war, and continued in the service until peace, became severally and individually vested with a complete right to the reward of half pay for the residue of their lives. The reward was gallantly won at the point of the sword ; it was the price of our independence purchased with blood, and secured by *public faith*."

The Senate's Committee on Revolutionary Claims, May 11, 1838, say : "After an assiduous investigation the committee conclude that no legislation subsequent to the 21st of October, 1780, could, or that by a fair construction did, contravene or in any manner impair the claim of the officers of the army or any class of such officers to the half pay promised them by the act of October 21, 1780. The half pay for life contracted by the act of October, 1780, to be paid to the officers of the army for certain services to be performed by them *instantly*, became a *vested right*, of which subsequent legislation, nor nothing whatever, could divest the officer, save a failure on his part to perform the service ; and it would be a libel on the good sense and justice of the distinguished statesmen and patriots of that period to imagine, even, that any legislation subsequent to the 21st of October,

1780, had for its object to impair the deliberate engagements made by that act to allow half pay for life to the officers of the army."

Your committee are of opinion that the contract of half pay has not been fulfilled on the part of the government, nor have the claimants been guilty of laches or neglect, for they have again and again presented and urged upon Congress the payment of their just demands. The claimants had no way in which to enforce their rights, and could only sue for them in the language of solicitation. Their rights may in fact be said to have been suspended by the judiciary act of 1789, and were never restored until the act of February 24, 1855, organizing the Court of Claims. Since the establishment of that court the cause of Doctor Baird *vs.* The United States has been decided, in which he claimed half pay for life, under the act of October, 1780, his commutation of five years' full pay having been paid by special act of Congress. The court, per Gilchrist, chief justice, decided that the petitioner was entitled to the half pay for life, and that the acceptance of a less sum than the half pay by way of commutation was no discharge of the original contract, the payment of a sum of money not being of itself a discharge of a debt for a larger amount, and adds: "A plea of payment of a small sum in satisfaction of a larger is bad even after verdict."—(2 Parsons on Contracts, 130, and notes.) The case was conceded not to be within any of the acts of limitation. The court allowed the demand *with interest*, and their decision was approved by both houses of Congress, and the money paid at the treasury. The high character of the Court of Claims and action of Congress in carrying their decisions into effect is a judicial and legislative construction and declaration of the rights of other claimants founded upon the same contract and governed by the same rules of evidence. Considering, then, the commutation certificates as not amounting to an accord and satisfaction, the claim of Doctor Baird and those embraced in the bill are governed by the same principles.

The Union was formed "*in order to establish justice,*" and in accordance with the beautiful precept of Christianity to "owe no man anything, but to render unto all their dues," and in obedience to the *Golden Rule*, and laws of the land, we find that these officers and their heirs-at-law have a just, legal, and equitable demand against the United States; not a claim merely, but a subsisting demand, due *in presenti*, "a debt of honor which can never be discharged without payment."

The committee, therefore, report the bill referred to them without amendment, and recommend its passage. It allows half pay for life to the officers from the close of the revolution to the date of their death, deducting therefrom all sums which have ever been paid to them by the government by way of commutation or as *pay*, under the act of May 15, 1828. For the purpose of extending to the surviving children of the *soldiers* of the revolution the benefits of the act of March 3, 1855, a section has been inserted for that purpose. The act referred to was doubtless intended to embrace their claims, but the word "minor" excludes them, as there are no "minor children" of the revolution; and hence the necessity of further legislation in behalf of these meritorious claimants. The committee will add that bills embracing the principle contained in the bill herewith reported,

so far as relates to the officers and their descendants, have passed the Senate and House of Representatives by large majorities, at different sessions of Congress.

The following is a synopsis of the bill :

Section 1 provides that the officers of the army who were entitled to half pay for life under the resolutions of Congress of 3d and 21st of October, 1780, 17th January, 1781, 8th of May, 1781, and 8th of March, 1785, shall be entitled to receive the same, although such officer may have received, in lieu thereof, the commutation of full pay for five years, under the resolution of Congress of the 22d of March, 1783.

Sec. 2. That it shall be the duty of the proper accounting officer of the treasury, when applied to for that purpose by any one who by this act is entitled to receive, or his or her guardian, to ascertain what is due to such officer from the time he became entitled to said half pay until the day of his death.

Sec. 3. That it shall be the duty of the Secretary of the Treasury, when the amount due to any officer has been ascertained as aforesaid, to pay the same, as hereinafter directed, after deducting therefrom the amount received for commutation under any special act of Congress, or under the resolution of March 22, 1783, and all sums received by such officer as *pay* or pension under the act of May 15, 1828.

Sec. 4. That the benefit of the resolution of the 24th of August, 1780, shall be extended to the widows and lineal descendants of all officers embraced therein who died in the service at any period during the war of the revolution.

Sec. 5. Extends the benefits of the acts of March 3, 1855, and May 14, 1856, to the surviving children of the *soldiers* of the revolution and persons provided for by those acts—(160 acres of land to the children of each soldier, &c.)

Sec. 6. The Secretary of the Treasury, under the direction and with the approbation of the President of the United States, shall prescribe such rules of evidence as may be necessary to carry into effect the provisions of this act.

Sec. 7. All payments made by authority of this act shall be without interest.

Sec. 8. That in every case the said accounting officer, before he shall order any claim to be paid, shall require satisfactory proof that the person or person in whose name the same may be presented is or are the *bona fide* owner or owners thereof, and that the claim has not been sold, transferred, or mortgaged, or any part thereof, to any person or persons whomsoever ; and all sales, transfers, mortgages, or pledges of any such claims are hereby declared void, and of no effect whatever.

Sec. 9. That surgeon's mates shall be entitled to the benefit of the resolution of the 17th of January, 1781, and receive the same pay as hospital physicians and surgeons.

Sec. 10. That all persons who apply for and receive the benefit of this act shall receive the same in full satisfaction of all claims under any of the resolutions of Congress hereinbefore recited, and for all losses alleged to have been sustained by depreciation in the value of

the certificates received as commutation under the resolution of Congress of the 22d March, 1783.

Sec. 11. That all claims which shall be allowed under the first section of this act shall be paid to the officer, if alive; and if he be dead, to his child or children equally; and if there be none living, then to his grandchildren or children, or their descendants, the issue of any deceased child taking among them the share of their deceased parents, and, in case there be no lineal descendant, then to the next of kin of such deceased officer.

Sec. 12. That the Secretary of the Treasury, instead of paying directly, as provided for in section 11, may, in his discretion and under such rules and regulations as he shall prescribe, pay the claims allowed under this act to the administrator, executor, or curator of such deceased officer, for the sole and exclusive benefit of his child or children, or their descendants or next of kin, to be distributed among them according to the provisions of section 11 of this act; and the same shall not be considered as part of the assets of said estate, nor applied to the payment of the debts of said estate in any case whatsoever.

Sec. 13. That all payments under this act shall be made in treasury notes, bearing an annual interest of six per cent. from the time of their issue, and be redeemable at the pleasure of the government of the United States.

Sec. 14. This act shall continue and be of force for the term of ten years, and no longer; and all claims not presented, with the evidence, for their adjudication within that time shall be forever barred.

Sec. 15. That the decision of the accounting officer shall be final and conclusive.

IN THE HOUSE OF REPRESENTATIVES, *April 4, 1856.*

Mr. BROOM, from the Committee on Revolutionary Pensions, made the following report:

The Committee on Revolutionary Pensions, to whom were referred the petitions of divers persons, praying for the full benefit of sundry resolutions of the continental Congress for the relief of the officers of the continental army, their widows and orphan children, and House bill No. 154, to provide for the settlement thereof, have had the same under consideration, and present the following report:

That they have carefully examined the memorials, and given the subject all the consideration which its importance demands. The incidents of the revolution, the great results of that struggle for liberty, and the happiness conferred by its accomplishment upon millions of freemen, would occupy volumes. The history of the period shows that at the commencement of the contest, in 1776, the population of the country was exceedingly sparse, and government so poor that many of the officers were obliged to arm and equip their own compa-

nies, and instances were frequent where their entire fortunes were devoted to the cause of their country. The continental bills, in which their monthly stipends were paid, had so depreciated that at the close of the year 1780 they were almost valueless. The money which they actually received was wholly inadequate for their own wants, while their families at home were often destitute. Under these circumstances, the commander-in-chief frequently presented to Congress the situation of the army, and urged the necessity of having some permanent provision for such officers as would remain in the service to the end of the war. In one of his letters, addressed to Congress on the 20th of August, 1780, he says: "On the whole, if something satisfactory be not done, the army (already so reduced in officers, by daily resignations, as not to leave a sufficiency to do the common duties of it,) must either cease to exist at the end of the campaign, or it will exhibit an example of more virtue, fortitude, self-denial, and perseverance than has ever yet been paralleled in the history of human enthusiasm. The dissolution of the army is an event which cannot be regarded with indifference. It would bring accumulated distress upon us; it would throw the people of America into a general consternation; it would discredit our cause throughout the world; it would shock our allies. To think of replacing the officers with others is visionary. The loss of the veteran soldiers could not be repaired." In compliance with General Washington's recommendation, Congress, on the 21st day of October, 1780, passed a resolution, in the following words: "*Resolved, That the officers who shall continue in the service to the end of the war shall be entitled to half pay for life, to commence from the time of their reduction.*"

This resolution may well be said to have formed a contract between the government and the officers at a time when both were free to make it, and its happy effect upon the army was soon seen and felt. In a letter from General Washington to Congress, in 1783, he says: "That in the critical and perilous moment when the last mentioned communication was made, there was the utmost danger that a dissolution of the army would have taken place, unless measures, similar to those recommended had been adopted, will not admit of doubt. That the adoption of the resolution, granting half pay for life, has been attended with all the happy consequences which I foretold, let the astonishing contrast between the state of the army at this instant and at the former period determine;" and in the same letter he urges, with eloquent appeals, that justice and good faith require that Congress should make provision for "the payment of all just demands of the army."

When the promise of half pay for life was made, the war had been in progress for five years, and it was uncertain how long it would continue; it might last for ten or twenty years, but the certainty of a competency to the officers after the contest should cease, although it afforded no immediate relief, cheered them on, and enabled them at length, at the risk of their lives, with the aid of their brave associates, and under the favor of Heaven, to perform the contract on their part, and achieve the liberty and independence of the country. The war closed in 1783, and, owing to the inability of Congress to pay the

army, it was furloughed first for six months, and then indefinitely; and in this way, as your committee are informed, the army of the revolution was disbanded. About that period, some dissatisfaction having arisen at the half pay system, a proposition was made to commute the half pay for life to five years' full pay; and, on the petition of seventeen officers only, Congress passed an act (see law of March 22, 1783) declaring that the officers who were entitled to half pay for life might receive, in lieu thereof, five years' full pay in *money* or securities, bearing an interest at six per cent.; which commutation was to be accepted by *lines* and States, and not as individuals. This law, called the commutation act, was on its face unjust and unequal; for while an officer of sixty years of age would willingly commute his life annuity for five years' full pay in advance, another of thirty might reasonably estimate his life at a much longer period. No one will contend that Congress could annul, vary, or rescind the contract of half pay for a less sum, without the assent of the officers as individuals; and the committee have been unable to ascertain that a majority of them, either by lines or as individuals, ever gave such assent. The effect of this arrangement was to subject the individual, as to his own particular rights, to the decision of others. If the officer had been left free to make his choice, and, having made it, the government had given him what he freely consented to receive, he may have been concluded. But he was not so free. The resolve of Congress, an act of the government, and a law, left him no choice but to abide by the decision of the lines and corps of the army, or wait, whatever might be his wants, till a more fortunate period should enable him to approach that body, not with power to enforce his right, but only to sue for it in the language of solicitation. But if such assent was given, the offer to compromise was not fulfilled by the government; for when the officers called for their "*money*" or specie at the treasury, they were turned away with paper certificates, worth in gold and silver, on the day of their date, as the records abundantly show, only one-eighth of their nominal value. For instance, a lieutenant's full pay for five years was by commutation \$1,600, and that sum in "*money*" in those days of severe economy, and when money was worth more than double its present value, would have enabled him to set out in life with reasonable hopes of a competency for himself and family; but when he came to realize that his certificates were worth only \$200, less than a year's pay, he could only lament the poverty, and protest against the injustice of the government in forcing them, as it were, upon him. There was no basis for them upon which to rest, nor any provision made for the payment of the principal and interest, until long after the imperious necessity of the officers compelled them to part with their paper for one-eighth of its nominal value. (See Senate Report of January 3, 1826.) The certificates were, however, many years after the war, finally funded and paid by the United States; but it may well be said that the commutation law and proceedings under it were a violation of the contract as contained in the resolution of October 21, 1780, and that the officers were not bound or concluded thereby, either at law or in equity, beyond the amount received by them under it.

The claims of these officers have repeatedly been presented to Congress, and as often received favorable reports from committees of the highest character for learning and ability. The first report upon these claims was made by Mr. Madison, on the 23d of April, 1783, in which he fully recognizes their justice. Again, in 1810, a committee of the House declare, "*That the contract entered into by Congress with the officers of the revolutionary army, allowing them half pay for life, has not been substantially complied with by our government ;*" and they recommend the following resolution : "*That the prayer of the petitioners is reasonable and ought to be granted.*"

No law was, however, passed at that session, and the war of 1812 soon followed ; and the subject does not seem to have been considered again until 1818, when Mr. Johnson, from a select committee of the House, to whom the subject was referred, made a report in favor of the memorialists.

On the 10th of December, 1819, another able report in favor of these claims was made in the House of Representatives by Mr. Sergeant, from the select committee to whom the subject was referred, in which, after reviewing the whole subject, he says : " It seems to your committee just and reasonable, and becoming the faith of the nation, to execute the contract originally made, upon the terms proposed by the memorialists ; that is to say, of deducting from the arrears of half pay, computed from the cessation of hostilities to the present time, the full nominal amount of the commutation certificate, and paying to the surviving officer the balance, and henceforward, during the remainder of their lives, paying them the half pay stipulated by the resolve of 1780."

On the 3d of January, 1826, another report was made in the Senate in favor of these claims. Among other things, the committee say : " By virtue of these resolves, (the half-pay resolutions,) a solemn contract between the government and the officers was made. It originated and was consummated by the free and unbiased will of the parties, without surprise or compulsion on either side. It has been most gallantly performed by the officers ; and after a bloody conflict of eight years, and when the liberties and independence of their country were secured, following the example of the celebrated Roman, they retired with cheerfulness to their private citizenship."

" It seems to the committee that the performance of a contract on such an occasion, and especially one which has produced such boundless consequences, ought to be observed on the part of the government with profound sanctity ; and that nothing, therefore, but the free expression of the will of both parties, unaffected by necessitous circumstances, ought to be allowed to abrogate or rescind it."

At the same session, (1826,) Mr. Burgess, of Rhode Island, a statesman of great astuteness, made a favorable report ; and the same member, on the 11th of February, 1828, made another able report, though no definite action upon it seems to have been had. After an elaborate view of the subject, the committee remark : " The certificates had no funds whereon to rest, and their market value was not equal to one year's pay. And it appears to your committee too much to say that the delivery of this almost valueless paper was a payment in money

according to the sense of the offer, or that these certificates were the securities intended thereby, either according to the common understanding of the term, or the distinction expressly made in the resolve itself, between securities and certificates. * * * * * Under these circumstances your committee, in the choice of alternative, are obliged to say that, in their opinion, the delivery of these certificates, as well on general principles as on those which govern in courts of law or equity, did not annul the rights to half pay, nor exonerate the government from the obligations of the original contract in this regard."

In 1852 this subject was again presented to the Senate, on the petition of the heirs of Lieutenant Benjamin Moore, and fully considered by the Committee on Revolutionary Claims, consisting of Messrs. Walker, of Wisconsin, James, of Rhode Island, Sumner, of Massachusetts, Foot, of Vermont, and Chase, of Ohio. They gave the subject the most careful and laborious examination, and the result of their labors may be found in the Senate Report No. 164, first session thirty-second Congress, and its perusal is commended to those who desire a knowledge of the subject.

No definite or final action appears to have been had on said report.

On the 4th of February, 1854, the subject was again brought forward in the Senate by Senator Evans, of South Carolina, who made a very able report, accompanied by a bill (No. 186) which subsequently passed the Senate, but was not acted upon in the House. The Committee on Revolutionary Claims, to whom it was referred, agreed upon a report, a copy of which is herewith presented, but it was not made in the House, as the chairman (Hon. R. W. Peckham) states, "for lack of opportunity." The subject was again brought forward in the Senate, and a report made by Senator Evans—No. 7, 1st session 34th Congress, (present session)—accompanied by bill No. 109. The bill, which the committee present, proposes substantially to carry out the laws of the continental Congress, by allowing the half pay for life, without interest, from the close of the revolution, in 1783, to the period of the officer's death, provided that event took place previous to March 3, 1826; but if after that time, then up to that day, deducting the full amount of the commutation certificates. The bill makes the amount which may be found due under it, in case of the officer's death, payable to the widow and children of the officer equally; and if no widow, then to his child, children, or grandchildren, the issue of any deceased child taking among them the share of their deceased parents. The bill proposes to deduct from the half pay to which any officer or his descendants are entitled the amount which has been received by way of commutation under a general or special act of Congress, and to pay the balance without interest. It also provides for those who were killed or died in the service. All those officers who died previous to 1793 will not derive any benefit under this bill, and its value to others will depend upon the time they lived after that period, and the rank they held in the army. The whole number of continental

officers entitled to half pay, according to an estimate of Senator Evans, is about.....	2,300
From which deduct for families which have become extinct, those who died previous to 1793, and those unable to make out their claims—say one half.....	1,150
Leaving the number to be provided for.....	1,150

Assuming the half pay of a captain, as the average, at \$240 per annum, and the lives of the officers at twenty years, ten years of which is covered by the commutation certificates, and it will require, to pay these men and their representatives within the next ten years, the sum of \$2,760,000, or, in round numbers, three millions. This sum divided among 27,000,000, our present population, would require about one cent from each inhabitant to cancel the debt.

The annual amount which will be disbursed in the settlement of these claims will not exceed the sums which we have expended in payment of revolutionary pensioners. Of the fifty-four thousand admitted to the rolls, only about seven hundred remain, and these are rapidly passing away. It is hardly necessary to go into a minute estimate of the sums which may be drawn from the treasury under this bill, for, if the justice of these claims be admitted, it is refreshing to know that the income of our government for about twenty days will pay them, to say nothing of the millions upon millions hoarded in our national treasury, and withdrawn from general circulation. We have abundant means to discharge these demands; and if they required the whole money in the treasury, we ought to pay them, and relieve the nation of the solemn obligation which yet rests upon it.

The widows and children of these officers are scattered throughout the Union, and many of them are living in poverty, while some are supported by charity. And although a long period has elapsed since "these old creditors of the country" were entitled to their money, the delay cannot justly be attributed to them, for they have again and again urged, and will continue to urge, the payment of their just demands. Nor is there any want of record evidence of these claims, for the committee have ascertained that the public archives contain full and perfect returns of the name and grade of every officer embraced by the bill, together with the dates, numbers, and amount of his commutation certificates; and the records of Congress are replete with evidence that no payment to these men has ever been made. If it be said that these claims are barred by lapse of time, it may be answered that they have repeatedly been urged upon and recognized by Congress as just and due; and a noble nation never pleads the statute of limitations against its own citizens.

In the Senate report to which we have alluded, (No. 164,) the committee say: "The men who held the destiny of this nation in their hands have now nearly all passed away, yet there remains on the journals of Congress an unredeemed pledge of the national faith: *the resolution of the 21st of October, 1780, stands unfulfilled on the part of the government.* The circumstances which prompted the passage of this resolution mark it as a monument of necessity and wisdom. That

necessity emanated, not from want of patriotism in the officers, but from stern domestic obligations resting upon many of them towards their wives and parents, who were dependent on them for support, whose wants could not be supplied from their small stipends, irregularly paid, and these only in a depreciated currency. That resolution, though it relieved nothing of present necessity, gave confidence and hope for the future, and brought more zeal and energy to the defence of the national liberties. To evidence the necessity and wisdom of the measure, the committee refer to the testimony of General Washington, in a series of letters written to Congress, at different periods from 1778 to 1783, at whose instance the resolution of 1780 was evidently adopted. What its necessity, object, and utility were will fully appear in that correspondence. The current testimony of Congress in numerous instances corroborates all the documentary history of that period, awarding the praise, and gratitude, and solemn faith of the nation to the soldiers and officers of the revolutionary army. At that time it had nothing else to give, and with self-denial and sacrifice unparalleled in the history of the world, that army, having successfully won by their arms the independence of their country, and for their patient endurance the admiration of the world, surrendered their half-pay annuities, and suffered themselves to be disbanded and discharged with a very small pittance of pay, and that in nearly a worthless medium, and returned to their families and friends destitute of any adequate means to establish themselves in civil life. The committee deem it unnecessary to add anything to that which has been so well said in the reports and letters quoted, and concur in the sentiment *that good faith, justice, and honor demand that we no longer withhold payment from these old creditors of the country.*"

The committee further report House bill No. 154, referred to them, and recommend its passage, with the following amendments, to wit:

In section 5, 4th line, strike out the words "half pay of a lieutenant of infantry," and insert in lieu thereof the words "same pay as hospital physicians and surgeons."

In section 9, strike out all after the enacting words, and insert the following: "That this act shall not extend to the case of any officer, or his representatives, who have received either half pay for life, or commutation in lieu thereof, under any special act of Congress."

In section 11, strike out all after the enacting words, and insert the following: "That all claims which shall be allowed under the first and fifth sections of this act shall be paid to the officer, if alive; and, if he be dead, to his widow and children equally; and if there be no widow living, then to his child, children, or grandchildren; the issue of any deceased child taking among them the share of their deceased parent, and to no other persons."

HEIRS OF CONTINENTAL OFFICERS.

Report to accompany bill for the final settlement of the claims of the officers of the revolutionary army, and of the widows and orphan children of those who were killed or died in the service.

The Committee on Revolutionary Claims, to which sundry memorials on the subject have been referred, do, by their chairman, ask leave to report a bill for the final settlement of the claims of officers of the revolutionary army, and the widows and orphans of those who died in the service.

In reporting this bill and recommending its passage, your committee respectfully submit the following statement and remarks :

The provisions of the bill are founded on certain resolutions of the old or continental Congress, and copies of those referred to in the first section of the bill are appended to this report.

It will be seen that they created a *solemn contract* between the government and those officers who served to the end of the war, to the performance of which the faith of the government and the nation was pledged.

It is admitted that that pledge has never been fully redeemed, and that most of that class of officers who performed *their* part of the contract have descended to the grave, leaving their widows and children to claim the fulfilment of it on the part of the government.

The bill herewith reported proposes to accomplish that object as far as circumstances will admit.

Your committee deem it unnecessary to enter into an explanation of the provisions of the bill, as they are sufficiently explained by the bill itself, in connexion with the resolutions of Congress referred to in it.

It will be seen that the bill proposes to deduct from the allowance of half pay (without interest) granted to the parties interested the full amount of commutation certificates for five years' full pay issued under the resolution of March 22, 1783, in lieu of the full pay promised by the resolutions referred to.

Your committee will not go into a history of the circumstances under which these commutation certificates were forced upon the officers to whom they were issued.

It is sufficient to say that the officers were induced by their poverty and necessities, and the condition of the finances of the government and country, to accept them ; and that, as is alleged, and your committee believe truly, owing to the same causes, they were compelled to part with those certificates at a great depreciation, and the original holders realized only about twelve and a half per cent. of their nominal value. But as they were afterwards paid by the United States at their full amount, it is deemed proper to deduct that amount from the claims of half pay allowed by the bill.

The justice of the claims provided for by the bill has been repeatedly recognized in Congress by committees and distinguished members of both Houses.

In April, 1783, Mr. Madison made a report in their favor, in which he fully recognizes their justice.

Again, in 1810, a committee of the House of Representatives "*Resolved*, That the *contract* entered into by Congress with the officers of the revolutionary army, allowing half pay for life, has not been substantially complied with by our government."

Again, in 1818, Mr. Johnson, from a select committee of the House, made a favorable report on these claims. And in December, 1819, another able report in their favor was made by Mr. Sergeant.

Also, in January, 1826, another favorable report was made in the Senate; and at the same session, and also in February, 1828, Mr. Burgess, of the House, made reports in favor of these claims.

In addition to this accumulation of opinions in their favor, may be added the fact that a large number of private acts allowing half pay to certain officers of the class embraced in the bill have been passed by Congress at different periods since the revolution.

But your committee beg leave to call the special attention of the House to the action of Congress in relation to claims for half pay of certain officers of the Virginia State troops and navy and of the line of that State.

By the act of Congress of 5th July, 1832, the accounting officers of the treasury are required to liquidate and pay the accounts of the Commonwealth of Virginia against the United States, for payment to the officers commanding in the Virginia line in the war of the revolution, on account of half pay for life promised the officers aforesaid by that Commonwealth, &c.

And the Secretary of the Treasury is required by the same act "to pay to the State of Virginia the amount of the judgments which have been rendered against the said State for and on account of the promises contained in an act passed by the legislature of that State in the month of May, 1779, in favor of the officers or representatives of the officers of the regiments and corps in said act of Congress mentioned, being officers belonging to the State troops or navy of Virginia."

Your committee refer to the act of 5th July, 1832, at large, for further particulars, with the remark that since Congress has provided for and paid the half pay claimed not only by officers of the line of Virginia, but of the State troops and navy of that State, founded upon promises made by the *State*, it seems to be unnecessary to cite any other or stronger precedent in favor of the claims provided for by the bill reported by your committee, founded on similar promises made by the Congress of the *United States*.

It may be proper for your committee to submit some remarks upon the probable amount of the draught which may be made on the treasury by the bill if it becomes a law.

In reply to anticipated objections and exaggerated statements on this subject, your committee would respectfully refer to the estimates made by Senator Evans, in his speech in the Senate, upon a similar bill reported by him to that body.

That speech was reported in the "*Congressional Globe*" of 19th April last, (1854.)

The honorable senator states that "the highest amount at which

the officers of the revolution have ever been estimated was *two thousand four hundred and eighty*; but it does not appear from the books of the Treasury Department that more than *two thousand two hundred and fifty-six* have ever received commutation or half pay."

He goes into a calculation to show that the average of the half pay of all the officers would be two thousand four hundred dollars, after deducting, as the bill proposes, the commutation which has been received by each. And that "the largest amount, supposing that the descendants of all of whom we have any record come in and receive under the bill, will be five million five hundred and twenty thousand dollars.

He then goes into another calculation to show the number of officers whose widows or descendants may probably claim under the bill, and arrives at the conclusion that their number will not exceed seventeen hundred and twenty-five; and that if the descendants of every one of that number should apply, their claims upon the treasury would not exceed four million one hundred and forty thousand dollars.

He also makes an estimate founded on the number of pensioners under the act of May 15, 1828, "that the descendants of not more than twelve hundred and forty-four officers can now make any claim under this bill, and that 'the total amount necessary to be appropriated for the entire extinguishment of all the claims likely to come in under the bill is two million nine hundred and sixty thousand six hundred dollars'—a little less than three millions."

Your committee have not tested the accuracy of the estimate made by Senator Evans by any calculation of their own; but, relying with great confidence upon his opinions and judgment in the matter, respectfully refer the results above stated to the consideration of the House.

If it be admitted, however, that the demands of *bona fide* claimants under the bill should exceed even the highest estimate above made of the total amount, your committee apprehend that it would not be a sufficient reason for refusing to pay them.

With a full treasury and an annual revenue of about seventy millions of dollars, there ought not be any hesitation to pay a debt the justice of which has been often acknowledged and never denied, and which has been repeatedly, within the last fifty years, asked for in vain until the present time.

Another consideration which may have some weight, in a financial point of view, in favor of the bill, is the rapid decrease in the number of revolutionary officers and soldiers, whose pensions, to a large amount, have been a charge upon the treasury in years past.

The following facts on that subject, derived in part from the last report of the Commissioner of Pensions, is respectfully submitted:

The whole number of persons who have been pensioned under the act of March 18, 1818, is about twenty thousand.

They are now reduced by death to only one hundred and seventy-five. The whole number pensioned under the act of May 15, 1828, is believed to be about fifteen hundred. There are now only eighteen on the list under that act.

The whole number pensioned under the act of June 7, 1832, is

about thirty-four thousand, of whom only eight hundred and seventy-six remain on the list.

These are the only general laws under which the officers and soldiers of the revolution have been pensioned ; and according to the report of the Commissioner of Pensions, there are only one thousand and seventy five now living, to receive the bounty of their country, not one of whom can be less than ninety years of age. The total amount paid during the year ending September 20, 1854, according to the table B of the Commissioner's report, to these three classes of pensioners, was only \$75,445, instead of the millions annually appropriated and paid to them in former years. And your committee would remark, in connexion with these facts, that the claims under the bill will not be an *annual* charge upon the treasury, but, when once paid, are finally and forever disposed of.

In concluding this report, your committee abstain from making any appeal to the patriotic feelings or natural sympathies of the House ; justice rather than sympathy is what the claimants expect, and what they have a right to demand in regard to these long-neglected claims.

But instead of any such appeal, your committee prefer to quote the language of the illustrious Washington in relation to these very claims. In a letter dated at Newburg, June 18, 1783, he thus expresses himself :

“ That provision (alluding to the half-pay resolution) should be viewed as it really was, a reasonable compensation offered by Congress, at a time when they had nothing else to give to the officers of the army for services then to be performed. It was the only means to prevent a total dereliction of the service ; it was a part of their hire ; I may be allowed to say it was the price of their blood and of your independence. It is, therefore, more than a common debt ; it is a debt of honor ; it can never be considered as a pension or gratuity, nor cancelled until it is fairly discharged.”

All of which is respectfully submitted.

MARCH, 1855.

The Committee on Revolutionary Claims agreed to the substance of the within report, but it was not made to the House at the last session, for the sole reason of a lack of opportunity to do so, after such agreement. In my judgment, the amount appropriated by the bill will be less than supposed by Senator Evans.

R. W. PECKHAM,

Chairman Com. Rev. Claims, last House of Reps.

ALBANY, October 15, 1855.

Copy of the resolutions referred to in the first section of the bill.

RESOLUTION OF OCTOBER 21, 1780.

Resolved, That those officers who shall continue in service to the end of the war shall be entitled to half pay for life, to commence from the time of their reduction.

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RESOLUTION OF JANUARY 17, 1781.

Resolved, That all officers in the hospital department and medical staff hereinafter mentioned, who shall continue in service to the end of the war, or be reduced before that time, shall be entitled to and receive during life, in lieu of half pay, the following allowance, viz: The director of the hospital, equal to the half pay of a lieutenant colonel; chief physician and surgeon to the army, and hospital physician and surgeon, purveyor, apothecary, and regimental surgeons, each equal to the half pay of a captain.

RESOLUTION OF MAY 8, 1781.

Resolved, &c., That every chaplain deemed and certified to the Board of War to be a supernumerary be no longer continued in service, and be entitled to have their depreciation made good, and to the half pay of captain for life.

RESOLUTION OF MARCH 8, 1785.

Resolved, That officers who retired under the resolve of 31st December, 1781, are equally entitled to half pay or commutation with those officers who retired under the resolves of 3d and 21st October, 1780.